

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

|                                 |   |                      |
|---------------------------------|---|----------------------|
| THE PROCTER & GAMBLE COMPANY,   | ) |                      |
|                                 | ) |                      |
| Plaintiff,                      | ) |                      |
|                                 | ) |                      |
| v.                              | ) | C.A. No.: 04-940-JJF |
|                                 | ) |                      |
| TEVA PHARMACEUTICALS USA, INC., | ) |                      |
|                                 | ) |                      |
| Defendant.                      | ) |                      |

**RULE 16 SCHEDULING ORDER**

The parties having satisfied their obligations under Fed. R. Civ. P. 26(f),

IT IS ORDERED that:

1. **Pre-Discovery Disclosures.** The parties will exchange by March 7, 2005 the information required by Fed. R. Civ. P. 26(a)(1) and D. Del. LR 16.2.

2. **Joinder of other Parties.** All motions to join other parties shall be filed on or before May 9, 2005.

3. **Discovery.**

(a) Exchange and completion of contention interrogatories, identification of fact witnesses and document production shall be commenced so as to be substantially completed by July 12, 2005.

(b) Maximum of 50 interrogatories, including contention interrogatories, for each side.

(c) Maximum of 50 requests of admission for each side.

(d) Maximum of ten (10) depositions by each side, excluding expert depositions.

(e) Depositions shall not commence until the discovery required by Paragraph 3(a) is substantially completed.

(f) Fact discovery shall be completed on or before October 17, 2005.

(g) Reports from retained experts required by Fed. R. Civ. P. 26(a)(2) for issues on which a party has the burden of proof are due by November 14, 2005; rebuttal reports by December 19, 2005.

(h) Any party desiring to depose an expert witness shall notice and complete said deposition no later than January 20, 2006, unless otherwise agreed in writing by the parties or ordered by the Court.

#### **4. Discovery Disputes.**

(a) A party seeking discovery which the opposing party refuses to provide shall file a motion (no brief) pursuant to Rule 37 of the Federal Rules of Civil Procedure and Local Rule 37.1. Said motion shall not exceed a total of four (4) pages and must specify that the filing is pursuant to the Discovery Dispute procedures provided in this paragraph. An Answer to the Rule 37 motion, not to exceed four (4) pages, shall be filed within five (5) days of service of the motion. No reply is permitted.

(b) All papers shall set forth in a plain and concise manner the issue(s) in dispute, the party's position on the issue(s), and the reasons for the party's position.

(c) Upon receipt of the Answer, the movant shall notify Chambers by e-mail at [jjf\\_civil@ded.uscourts.gov](mailto:jjf_civil@ded.uscourts.gov) that the dispute is ready for decision.

(d) Upon receipt of the movant's e-mail, the Court will determine whether a conference is necessary and advise the parties accordingly.

(e) There is no limit on the number of Rule 37 motions a party may file, unless otherwise ordered by the Court.

5. **Amendment of the Pleadings.** All motions to amend the pleadings shall be filed on or before July 26, 2005.

6. **Case Dispositive Motions.** Any case dispositive motions, pursuant to the Federal Rules of Civil Procedure, shall be served and filed with an opening brief on or before February 13, 2006. No case dispositive motion may be filed more than ten (10) days from the above date without leave of the Court. Oppositions to dispositive motions shall be served and filed on or before March 13, 2006. Reply briefs in support of dispositive motions shall be served and filed on or before March 27, 2006. The Court will issue a separate Order regarding procedures for filing summary judgment motions.

7. **Markman.** A Markman Hearing will be held on APRIL 13 2006. Opening claim construction briefs shall be served and filed by the parties on or before February 13, 2006; rebuttal briefs shall be served and filed on or before March 13, 2006. Briefing on the claim construction issues shall be completed at least ten (10) business days prior to the hearing. The Court, after reviewing the briefing, will allocate time to the parties for the hearing.  
AT 10:00 a.m.

8. **Applications by Motion.**

(a) Any applications to the Court shall be by written motion filed with the Clerk of the Court in compliance with the Federal Rules of Civil Procedure and the Local Rules of Civil Practice for the United States District Court for the District of Delaware (Amended Effective January 1, 1995). Any non-dispositive motion shall contain the statement required by D. Del. LR 7.1.1. Parties may file stipulated and unopposed orders with the Clerk of the Court

for the Court's review and signing. The Court will not consider applications and requests submitted by letter or in a form other than a motion.

(b) No facsimile transmissions will be accepted.

(c) No telephone calls shall be made to Chambers.

(d) Any party with a true emergency matter requiring the assistance of the Court shall e-mail Chambers at: [jjf\\_civil@ded.uscourts.gov](mailto:jjf_civil@ded.uscourts.gov). The e-mail shall provide a short statement describing the emergency.

9. **Pretrial Conference and Trial.** The Court will schedule a Pretrial Conference and Trial after reviewing the parties' proposed scheduling order.

DATE

May 31, 2005

Joseph J. Fauna  
UNITED STATES DISTRICT JUDGE